

## REMARKS

Claims 1-47 are pending in the application. Claims 1, 45, and 46 have been amended. Reconsideration and re-examination of pending claims 1-47 is respectfully requested.

Claims 1-29, 31, 32, 35, 36, and 40-47 have been rejected under 35 USC 102 as being anticipated by Hayward et al. (US 5,574,828). Applicant respectfully disagrees.

First applicant notes that Hayward is directed to a system for creating an application. It is a developer tool used to generate a second application. For example, in the abstract, Hayward states:

“ A system utilizing a software program used to write other software application programs for the implementation of guideline applications for use in situations where a qualification decision or next course of action determination must be made. The system uses questions with limited choice answers. Data provided in answer to the questions causes a second program application to be automatically generated based on the answers.”

In the “Field of the Invention”, Hayward states:

“In particular, the present invention relates to a system including a computer application program which accepts input data based on guidelines of various types and generates a second interactive application program known as a Guideline Application Program (“GAP”) based on the input data and on the guidelines.”

By contrast, the present application is not a developer based application for creating another second application, but is an application for an end user, not by a developer. The entire description of Hayward is directed to the process of building an application for an end user. There is not discussion of the operation of an end user application in Hayward. This difference in the prior art and the present application distinguishes the interpretation of Hayward by the Examiner from the claimed system of the present application.

For example, the Examiner contends that Hayward teaches the claim element of determining a current recommendation based on processing the user input through at least a portion of the algorithm and cites column 7, lines 34-40 and column 12, lines 27-35. Referring first to the citation in column 7, it reads:

The input data is processed by the system application to generate a second application program. The second application program is an interactive questionnaire application used to elicit responses from the user in order to make a qualification decision or to recommend a next course of action.

As is clear from the text, Hayward is talking about a system for generating another application (the second application). Hayward does describe the second application as an

interactive questionnaire that elicits responses from a user. However, there is no teaching in that section (or anywhere in Hayward for that matter) that the second application will present a current recommendation that is generated iteratively.

The second citation by the Examiner of Column 12 reads:

When all questions and other reported data for a new application have been written, the Algorithm Editor is used to define how responses to questions, other reported data, and objective data variables will be used to match guideline-based recommendations to individual patients. FIG. 17 shows the window that is displayed to a user when the Edit Algorithms pushbutton 93 is selected from the Main Menu.

Again, it is clear that Hayward is talking about a tool (Algorithm Editor) used in building a second application. In discussing how that second application might operate, there is no teaching, suggestion, or description of displaying a current recommendation that is generated iteratively.

Based on the above, the claimed element of making a current recommendation that is generated iteratively is not found in Hayward. Thus, independent claims 1, 45 and 46 are not anticipated by Hayward.

The Examiner goes on to suggest that Hayward teaches making the current recommendation optionally available to be displayed as desired by the user, as called out in independent claims 1, 45, and 46. However, as will be shown below, the reference cited by the Examiner in Hayward is not to a current recommendation but rather to a choice of three display paths that the developer can make and can have built in to the second application. The Examiner cites column 24, line 65 to column 25, line 2, which states:

The Display Feedback Routine is now performed 636. The user is now presented with three options: to display the Health Risk Feedback (which is the default choice on start-up) 637, to display the Suggestion Feedback 638, or to display the Patient Education Feedback 639.

The three options are paths that will be built in to the second application by the decisions of the developer when using the Hayward system. These display options do not represent a current recommendation generated iteratively as in the claimed system, but rather fixed display types that are no more than conditional branches in an application. By contrast, the current recommendation is a result of user input and processing at least partially through an algorithm. In addition, the current recommendation is displayed as desired by the user in the present claimed system. The Display Feedback Routine of Hayward is fixed by the developer and does

not respond to the desire of the user. In the present claimed system, the user can request a current recommendation at the desire of the user, not at the desire of the application developer.

For the foregoing reasons, Applicant contends that independent claims 1, 45, and 46 are now allowable. All dependent claims are themselves allowable as being dependent on an allowable base claim.

### CONCLUSION

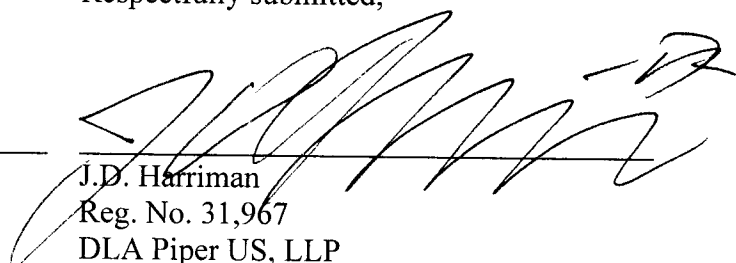
The Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. In view of the foregoing discussions, it is clear that the cited art, individually or in combination, does not teach all of the elements of any pending claim, as amended, of the present Application. Thus, the claimed invention is patentably distinct over the prior art. Therefore, reconsideration and allowance of now pending claims 1-47 is believed to be in order, and an early Notice of Allowance to this effect is respectfully requested.

Applicant hereby requests an extension of time of two (2) months to respond to the outstanding office action. The Commissioner is hereby authorized to charge the fee of \$225 pursuant to 37 CFR 1.17(a)(2) for extension of time to Deposit Account No. 07-1896.

**The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1896. Should such additional fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefore.**

Respectfully submitted,

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